
ASMBS Activity Report

March 2014

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HEADLINES:

OPM Prohibits Obesity Exclusions in FEHB Plans Beginning 2015

OCC Meets with HHS/CCIIO

OCC Comments on AHRQ TA on Obesity Therapies

OPM Prohibits FEHB Plans from Excluding Obesity Treatment Services Beginning in 2015

On March 20, 2014, the Office of Personnel Management (OPM) issued a letter to all Federal Employee Health Benefit (FEHB) Program Carriers regarding coverage of FDA-approved obesity drugs and bariatric surgery. In the Carrier letter, OPM stated that:

"It has come to our attention that many FEHB carriers exclude coverage of weight loss medications. Accordingly, we want to clarify that excluding weight loss drugs from FEHB coverage on the basis that obesity is a "lifestyle" condition and not a medical one or that obesity treatment is "cosmetic"- is not permissible. In addition, there is no prohibition for carriers to extend coverage to this class

of prescription drugs, provided that appropriate safeguards are implemented concurrently to ensure safe and effective use."

OPM's policy clarification on obesity treatment will affect all FEHB plans beginning January 1, 2015.

The Obesity Care Continuum (OCC) reached out to all its health policy contacts in Congress and the Department of Health and Human Services to apprise them of the OPM coverage guidance. As part of this outreach, OCC applauded OPM for understanding that treating obesity is a medical necessity and that all public and private health plans need to follow suit and embrace coverage of evidence-based obesity treatment avenues such as intensive behavioral therapy, pharmacotherapy and bariatric surgery so that those affected may have access to the full continuum of care for this complex and chronic disease.

OCC Leaders Press HHS on Inconsistent Coverage of Bariatric Surgery in State Health Exchange Plans

On March 27, 2014, OCC leaders participated in a meeting with key staff from the HHS Office of Health Reform and CMS Center for Consumer Information and Insurance Oversight (CCIIO) to discuss issues raised by the American Society for Metabolic and Bariatric Surgery regarding inconsistent coverage of bariatric surgery in a number of states across the country.

Specifically, ASMBS highlighted 4 states (CA, MI, NM and NY) where some qualified health plans (QHPs) in those states are excluding or limiting coverage for bariatric surgery – despite those states having essential health benefit benchmark plan submissions that include coverage for bariatric surgery.

HHS staff continued to be concerned about the issue but declined to say whether the Department would take action to remedy the problem. Staff encouraged advocates and patients to appeal these inconsistencies through either the federal healthcare hotline in federally-facilitated exchanges or through State Insurance Commissioners for state-facilitated exchanges.

Needless to say, the obesity community is extremely disappointed that HHS is choosing to sit on the sidelines while clear violations of Affordable Care Act patient protections are violated. At the time of this report, OCC leaders were debating next steps to remedy the situation.

OCC Comments on Key Questions for AHRQ Technology Assessment on Obesity Therapeutics

On March 20, 2014, the Obesity Care Continuum (OCC) submitted comments regarding the March 6th Agency for Healthcare Research and Quality's (AHRQ) Technology Assessment Program Topic Refinement draft key question document entitled, Therapeutic Options for Obesity in the Medicare Population.

In the comments, OCC applauded AHRQ for choosing to examine the comparative effectiveness of the full range of obesity treatments, including obesity surgery, pharmacologic options, lifestyle interventions, and combination of interventions on the Medicare population with BMI \geq 30. Though pleased that the proposed questions outlined in the topic refinement document target many of the key areas that should be addressed, the OCC did offer detailed suggestions on how to improve some of the focus areas.

In addition to providing comments on the Key Questions, the OCC also highlighted that compiling the needed data in these areas will

be extremely difficult given Medicare coverage policy surrounding critical treatment avenues such as FDA-approved obesity drugs and intensive behavioral therapy. In the case of the former, this task should be very problematic given that Medicare Part D continues to prohibit coverage of any FDA approved drugs for weight loss or weight gain.

While Medicare began covering intensive behavioral therapy in 2011 for beneficiaries affected by obesity, the rules issued by the Centers for Medicare & Medicaid Services (CMS) utilize an overly-restrictive coverage policy regarding eligible providers – limiting coverage to primary care physicians in a primary care setting. Under this approach, obesity medicine specialists, registered dietitians, bariatric surgeons, and mental health professionals are prohibited from independently providing these services. Medicare’s coverage policy on IBT is also contradictory to the recommendations and evidence review issued by the United States Preventive Services Task Force, which state that “intensive interventions may be impractical within many primary care settings.”